

Frankfort/Franklin County
Planning Commission

April 26, 2007

Chairman Dwayne Cook, Presiding

Chairman Dwayne Cook called the meeting to order. Recording Secretary Dianna Rogers called the roll.

Members Present:	Keith Lee	
	Patti Cross	
	Charles Stewart	
	David Garnett	
	Annie Metcalf	
	Joel Schrader	
	Darrell Sanderson	
	Charles Booe	
	Vickie Sewell	
	Dwayne Cook	(10)
Member Absent:	Sherron Jackson	(1)

There being a quorum, the meeting proceeded.

Mr. David Garnett stated the Governor's appointment to the Planning Commission resigned office effective 1/1/07. He stated K.R.S. 100.147 stated if the vacancy is not filled within sixty days by the appointing authority, the Planning Commission shall fill the vacancy. Mr. Garnett made a motion that Vickie A. Sewell be appointed to the Commission for a four year term. The motion was seconded by Mr. Sanderson and carried unanimously. Mr. Garnett issued the Oath of Office to Ms. Sewell.

The next item of business was approval of the minutes of the meeting of March 8, 2007. Mr. Garnett had the following changes: add the date to the top of the page and also: page 5 – in the first line, after words "...backyards never dry out." Add "Mr. Van Meter submitted a printout which he said was from applicant's own website, purporting to show that applicant's service already covers the souther portion of Franklin County." Page 6 – third paragraph – delete word "postponed" in second line and replace with "closed and that the matter be tabled..." Page 7 – fourth paragraph – strike "Twit" and replace with "Twedt". Ms. Metcalf requested page eight have capital letter beginning each sentence starting with the third paragraph and condition three had an extra period at the end of the sentence that needed to be removed. Mr. Garnett made a motion to approve the minutes with the above changes being made. The motion was seconded by Mr. Sanderson and carried unanimously.

A motion was made by Mr. Garnett to approve the following bills for payment:

Dianna Rogers – Secretarial PC – March	\$ 450.00
Dawn McDonald – Secretarial BZA – March	75.00
Edwin Logan – PC March	700.00
Edwin Logan – BZA March	550.00

Logan & Gaines, PLLC (RE: Gilbert)	137.50
State Journal – Advertising 2/19,3/4, 3/20, 3/25	251.89
American Consulting (Sand Lot Traffic Study)	5,084.82
American Consulting (Traffic Engineering Services)	6,879.21

A motion was seconded by Mr. Lee and carried unanimously.

There were no reports of officers. Under Standing Committees, Mr. Keith Lee stated the Subdivision Committee would be meeting at the Court House on April 30 at 6:00 P.M.

Under Standing Committees, Mr. Garnett stated Fiscal Court adopted the Goals and Objectives on April 6 and the City Commission adopted them on April 23. He stated the Facilities Committee is still working.

There were no special orders.

Under staff items, Mr. Robert Hewitt, County Planning Director, stated discussion by the National Guard concerning a joint land use study was on the agenda but there was no representative from the National Guard present.

Also under staff items, Mr. Gary Muller, City Planning Director, stated termination of contract by Context Planning was on the agenda. Mr. Muller stated a written thirty day notice of termination had come and gone. He recommended the termination be accepted and staff would continue to rewrite the zoning regulations and Mr. Muller would be the lead person. The Commission was in agreement.

The next item of discussion came from Mr. Edwin Logan, Commission Attorney, who stated the City and County Planning Director's had been contacted by Charlie Jones for an interpretation on Certificates of Occupancy (c/o).

Mr. Charlie Jones was present and stated it appeared that staff is interpreting the Subdivision Site Plan Regulations and other applicable ordinances in different ways, causing confusion among the community. He added as this impacts the entire community, and not just his clients, he was requesting from the Planning Commission an interpretation of the rules with regards to this situation or seek direction from the Commission on the allowance of issuing a c/o regarding a final subdivision plat being recorded and the residential home passing a final building inspection. Mr. Jones stated they want at least a temporary c/o once the final plat has been recorded, a building permit has been issued and a final building inspection for a period of at least six months. Mr. Lee asked what happens after six months if everything is not complied with. Mr. Jones stated they people would have notice and he was confident things could be resolved. Mr. Hewitt and Mr. Muller were in agreement with the request.

A motion was made by Mr. Sanderson to adopt that the City and the County Planning Offices have the right to issue a temporary c/o no longer than six

months with a final subdivision plat being recorded, a building permit being issued and a final building inspection being made. The motion was seconded by Mr. Schrader. The following voted in favor of the motion: Mr. Lee, Ms. Cross, Mr. Stewart, Mr. Garnett, Mr. Schrader, Mr. Sanderson, Mr. Booe, Ms. Sewell and Mr. Cook. Voting against the motion was Ms. Metcalf. The motion carried 9-1.

Mr. Muller stated he had training information and would be passing it out at the end of the meeting.

The next item of business was a continuation of Cellco Partnership d/b/a Verizon Wireless for approval to construct a new wireless communications facility on a site located at 375 Green Wilson Road, Frankfort, Kentucky 40601 for a 307 foot tower.

A motion was made by Mr. Garnett to take the item from the table. The motion was seconded by Mr. Sanderson and carried unanimously. Mr. Lee, Mr. Schrader and Mr. Sanderson stated they were recusing themselves from this item.

A motion was made by Mr. Garnett to establish the finding of fact that section 6.304 (E) (5) of the Franklin County Zoning Ordinance states that one of the criteria to be used in evaluating an application for placement of a wireless communication facility, is the "Extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact". Statements received from several of the persons who spoke before the PC on this matter showed their objection to the visual impact this tower would have on their enjoyment of their property. The motion was seconded by Mr. Booe and carried unanimously.

A motion was made by Mr. Garnett to establish the finding of fact that section 6.304 (D) (6) of the Franklin County Zoning Ordinance states that a residential area is the "least preferred" location for a wireless communication facility. The proposed location is zoned "Rural Residential" and statements made at the hearing showed that the proposed location is in the midst of a number of residences. The motion was seconded by Mr. Booe. Those voting in favor: Mr. Stewart, Mr. Garnett, Ms. Metcalf, Mr. Booe, Mr. Cook. Voting against: Ms. Cross. The motion carried.

A motion was made by Mr. Garnett to establish the finding of fact information received at the hearing included a printout from applicant's own website which purported to show that applicant's service already covers the southern portion of Franklin County. The motion was seconded by Mr. Booe. Those voting in favor: Ms. Cross, Mr. Stewart, Mr. Garnett, Mr. Booe, Mr. Cook. Voting against: Ms. Metcalf. The motion carried.

A motion was made by Mr. Garnett that findings cease. The motion was seconded by Mr. Booe and carried unanimously.

A motion was made by Mr. Garnett that based on findings 1, 2 & 3, the Commission forward a recommendation of denial to Fiscal Court. The motion was seconded by Mr. Booe. Those voting in favor: Mr. Stewart and Mr. Garnett. Voting against: Ms. Cross, Ms. Metcalf, Mr. Booe and Mr. Cook. The motion failed.

A motion was made by Mr. Garnett that based on findings 1 & 2, the Commission forward a recommendation of denial to Fiscal Court. The motion was seconded by Mr. Booe. Those voting in favor: Mr. Stewart, Mr. Garnett, Mr. Booe, Mr. Cook. Those voting against: Ms. Cross, Ms. Metcalf. The motion carried 4-2.

A motion was made by Mr. Garnett that the Planning Commission needs to submit to the Public Service Commission their actions – get a letter to them that the request was denied based on findings 1 & 2 and the applicant should seek location not in a residential area and doesn't present negative impact to the surrounding area. The motion was seconded by Mr. Booe and carried unanimously.

RECESS

The first item of new business was a request from Mr. Charlie Jones, on behalf of M&W, LLC for approval of a waiver from parking standards within Article 10 from 6 spaces per 1000 square feet of gross floor area (high retail use) to 5 spaces per 1000 square feet of gross floor area (other retail use) for the development proposed on parcel B – Kohls, within the Parkside Development. Specifically they are requesting to be allowed to provide 343 parking spaces for the 68,639 Kohls building rather than the currently required 412 spaces; a waiver of 69 spaces. The property is located at the southwest corner of the intersection of I-64 and Versailles Road and has the PVA map # of 086-00-00-021.00, zoned Highway Commercial.

Mr. Charlie Jones, on behalf of the applicant, was present and stated he concurred with the staff report. He stated the store is not just for apparel and felt a better classification was other retail not specified. He stated one justification for 69 less spaces was that large block store require too much parking. He stated they are providing 16,000 square feet of landscaping in the parking area. He stated landscaping was not required by the county and they were meeting a much higher standard. He stated Kohls, by email, stated across the country they find 5 per 1000 is a good broad based average and they feel it is sufficient. Mr. Jones stated if they switched tenants this would not apply. Mr. Garnett stated the staff reports stated this will be a reduction in paving. Mr. Jones stated yes, 180,000 impervious surface will be put into landscaping. Mr. Garnett stated they are trading blacktop for greenspace. Mr. Jones stated they agree to provide at least 15,000 square feet of landscaping in the parking area.

There was no one in the audience to speak in favor or in opposition to the request.

Mr. Gary Muller, City Planning Director, stated he recommended approval with two conditions in the staff report. Mr. Lee asked if they could put items in

the parking lot. Mr. Muller stated this follows county regs so they could request that and it would have to be addressed.

There was no one in the audience to speak in favor or in opposition.

Mr. Jones stated he did not know findings were necessary under 1.08 but added they request could be justified that there is not a need for that many parking spaces, there would be more landscaping than paving, this would assist in drainage and run/off and that the space would not be taken from the existing 20' landscape buffer. Ms. Metcalf requested research on parking for big box stores that provide an assortment of items be done. Mr. Muller stated he would bring it up before the Zoning Ordinance Update Committee.

A motion was made by Mr. Garnett to establish the finding that it has been shown there is a lack of need that are requested for approval of this type retail operation. The motion was seconded by Ms. Metcalf and carried unanimously.

A motion was made by Mr. Garnett to establish the finding that the reduction will result in an increase of green space. The motion was seconded by Mr. Sanderson and carried unanimously.

A motion was made by Mr. Garnett to establish the finding that the reduction in impervious surface will assist in runoff. The motion was seconded by Ms. Sewell and carried unanimously.

A motion was made by Ms. Metacalf to establish the finding that the ability of the site to provide additional parking in long term is not adversely affected. The motion was seconded by Ms. Cross and carried unanimously.

A motion was made by Mr. Garnett to establish the finding that space will not be taken from the existing 20' landscape buffer for other green space requirements. The motion was seconded by Mr. Schrader and carried unanimously.

A motion was made by Mr. Sanderson that findings cease. The motion was seconded by Ms. Cross and carried unanimously.

A motion was made by Mr. Sanderson, based on the approved 5 findings of fact and three conditions that this request be approved: this waiver shall only apply to a Kohl's department store to be located on parcel B as shown on the preliminary plat approved on 3/8/07; this approval shall become null and void upon cessation of a Kohl's Department store on Parcel B; and a minimum 15,000 square foot of landscape area as indicated on the drawings be provided. The motion was seconded by Ms. Cross and carried unanimously.

A motion was made by Mr. Garnett to take items on the agenda out of order and hear the Kain zone change. The motion was seconded by Ms. Cross and carried unanimously.

Mr. Jack Kain, represented by Mr. Malcom Endicott and Mr. Keith Parker, is requesting approval of a zone map amendment from Agriculture District (AG) to Rural Residential District (RR) for a 29.95 acre vacant parcel of property located at the end of Harmony Lane in Franklin County, Kentucky with a PVA map #096-00-00-003.00.

The Secretary stated this was a called public hearing under the authority of KRS 100.231, paragraph 1, to consider a zone map amendment as requested by Jack. Kain.

The Commission conducting an evidentiary hearing as there will be the taking of sworn testimony, findings of fact upon substantial evidence and the conclusions supported by those findings.

The secretary swore in all wishing to speak regarding this matter.

Mr. David Garnett recused himself from this item.

Mr. Keith Parker, 122 Valleybrook Drive, was present for the applicant. He stated the request meets the Comprehensive Plan. He stated they were in agreement with the staff report.

There was no one in the audience to speak in favor or in opposition to the request.

Mr. Robert Hewitt, County Planning Director, was present and stated there were no changes to the staff report. Mr. Logan requested the staff report be entered in lieu of testimony. The report was entered without objection by Chairman Cook.

A motion was made by Ms. Metcalf the public hearing be closed. The motion was seconded by Ms. Cross and carried unanimously.

A motion was made by Ms. Metcalf to accept the staff report in lieu of a summary. The motion was seconded by Mr. Schrader and carried unanimously.

A motion was made by Ms. Metcalf to adopt findings 1, 2 & 3 of the staff report. The motion was seconded by Ms. Sewell and carried unanimously.

A motion was made by Mr. Sanderson that findings cease. The motion was seconded by Mr. Booe and carried unanimously.

A motion was made by Ms. Metcalf to recommend approval of the request to Fiscal Court based on the approved findings of fact. The motion was seconded by Ms. Sewell and carried unanimously.

The next item of business was a request from the Choatesville Christian Church for a modification of standards to part 3, section 4.04.02 water dystem design and fire protection standards to allow an existing 4 inch water line to serve the site with a potable water supply and fire protection for the construction of a 16,156 square foot church at Tract A Devils Hollow Road, pva map 034.00.00.011.01.

Mr. Charlie Jones, Attorney, present for the applicant, stated new information had come in since the staff report was written. Mr. Jones submitted two memos, one from David Billings and one from Gary Watts, for the record. Mr. Jones stated they want a modification because the regs call for a 6" line and they can't meet that. He stated they have a letter from the Fire Chief stated the need flush hydrants. He added the Plant Board has plans to upgrade in the future, maybe 2 to 4 months. He added the church would install two fire hydrants that would bring them into compliance. Mr. Jones stated the church is being built of insulated concrete form with 10" concrete walls as the support structure. He stated it was more safe from fire hazards. Mr. Jones stated he believes this benefits public interest with no adverse impact. He added they are not putting any greater impact that to what is already there. He stated there is a flush hydrant 900 feet away from this site. He added they feel this is a superior alternative. The current church is an old, antiquated structure and to meet the requirement is a technical impracticality right now.

There was no one in the audience to speak.

Mr. Robert Hewitt, County Planning Director, stated there was a correction to the staff report and it should say 3.04.02 requires eight inch mains. Mr. Hewitt stated this was a state building project and the county has not issued a building permit yet. Mr. Hewitt recommended denial.

A motion was made by Mr. Lee to approve the modification on the existing 4" line including the three recommendations from the Fire Chief. The motion was seconded by Mr. Sanderson and carried unanimously.

The next item of business was a request from Mr. David Collins, on behalf of CHN Developers, LLC, for a modification of standards to part 3, section 3.03.02 subsection j to allow the vertical curve of the proposed road to be designed in accordance with the ASSHTO road design standards for a proposed subdivision identified as Homestead Oaks, located at 980 Taylor Road.

Mr. Bennie Maffett was present for the applicant and stated they were in agreement with the staff report. He added this was not the first time they had asked for modification on the vertical curve. He stated the sub regs call for 220' site distance at 25 mph. He stated AASHTO is nationally accepted and calls for 155' site

distance. He stated Kentucky has rolling terrain and is more superior design following the national standard. He stated if you flatten out the road you have to go up to the driveway and that is a safety issue. He stated they felt the Commission should consider adopting AASHTO as the standard. He stated he has a letter to Mr. Hewitt from Municipal Engineering that it is typically an accepted standard.

There was no one in the audience to speak.

Mr. Hewitt was present and stated he recommended approval. He added they may wish to consider adopting AASHTO standards. Mr. Garnett stated maybe our standards afford our citizens greater safety.

A motion was made by Mr. Lee to approve the modification of standards to use AASHTO standard for vertical curve based on the staff report and Municipal Engineering letter. The motion was seconded by Mr. Sanderson. Those voting in favor: Mr. Lee, Ms. Cross, Mr. Schrader, Mr. Sanderson, Mr. Booe and Mr. Cook. Those voting against: Mr. Stewart, Mr. Garnett, Ms. Metcalf, Mr. Sanderson, Ms. Sewell. The motion failed by a vote of 5-5.

It is noted Ms. Metcalf left the meeting at this time.

The final item of business was a request from Crumbaugh Leasing & Development, LLC, is requesting approval of a zone map amendment from Rural Residential "B" District (RB) to Rural Low Density Multifamily District (RL) for a 39.521 acre property located at 349 Devils Hollow Road in Franklin County, KY.

The Secretary stated this was a called public hearing under the authority of KRS 100.231, paragraph 1, to consider a zone map amendment as requested by Crumbaugh Leasing & Development, LLC.

The Commission is conducting an evidentiary hearing as there will be the taking of sworn testimony, findings of fact based upon substantial evidence and the conclusions supported by those findings.

The Secretary swore in all wishing to speak.

Mr. Charlie Jones was present for the applicant. He stated this does not take up all the land. He added the request was in compliance with the Comprehensive Plan and all public utilities are available. Mr. Jones stated Smart Growth groups want a mix of housing styles. He stated maybe the original rezone to RB was in error previously. He added this affords more housing types. He stated it is a price range not afforded now. He stated RL allows for more home ownership. Mr. Jones stated he concurred with the staff report.

Mr. Jones stated 16 units per acre (600) is allowed and that would not be practical. He stated he felt the max would be 302.

Mr. Donnie Swanagan, 443 Devils Hollow Road, stated he is zoned RB and he felt his property would go down. He asked why they did not take him into consideration. Mr. Lee asked if he was attached to this property by two sides. Mr. Jones stated yes. Mr. Swanagan stated there was a dangerous curve near Stephens Garage.

Mr. Robert Hewitt was present and requested his staff report be entered into the road in lieu of testimony. The report was accepted into the record by Chairman Cook. Mr. Garnett asked if the multifamily would serve as a buffer. Mr. Hewitt stated yes, under Village Hamlet. Mr. Sanderson had traffic concerns. He also said it seems the property is being split into multifamily and single family instead of transitioning. Mr. Hewitt stated it has that potential.

A motion was made to table the item for summary preparation by Mr. Lee. The motion was seconded by Mr. Schrader and carried unanimously.

Diana Looney of Collins Lane was present and stated there are neighborhoods with many empty homes that devalue property. She stated she hopes they will say no at some time and think of the whole picture.

A motion was made by Mr. Sanderson and seconded by Ms. Cross to adjourn. The motion carried unanimously.

Chairman Dwayne Cook

Recording Secretary Dianna
Rogers